

A JOINT MEMORIAL

REQUESTING THE STATE'S CONGRESSIONAL DELEGATION TO SUPPORT REFORMS TO THE FEDERAL ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000.

WHEREAS, the federal Energy Employees Occupational Illness Compensation Program Act of 2000 was enacted to provide compensation to those veterans of the cold war who were employed by the United States department of energy and who were made ill from exposure to radiation, beryllium and other toxic substances; and

WHEREAS, the number of New Mexicans who have received benefits pursuant to that act is small compared to the number of recipients in other states; and

WHEREAS, on August 14, 2002, the United States department of energy issued regulations to implement a portion of that act to provide physician-panel determinations on occupational illnesses for contractor employees exposed to toxic substances at department of energy facilities; and

WHEREAS, the United States department of energy is encountering significant delays in securing physician-panel review of claims and, at the current rate of implementation, claimants will wait one hundred sixty-six years to receive findings on their claims; and

WHEREAS, families filing claims have experienced delays

in access to medical and exposure records, incident reports and confirmations of job histories; and

WHEREAS, the contractor performing radiation dose reconstructions for the national institute for occupational safety and health has reportedly admitted conflicts of interest; and

WHEREAS, the federal act restrains contractors who operate United States department of energy facilities from contesting state workers' compensation claims for illnesses induced by toxic chemicals, claims that have been found by physician panels to be meritorious; and

WHEREAS, the United States department of energy has conceded it may not have a willing payor through state workers' compensation programs for claims that are deemed meritorious by physician panels; and

WHEREAS, legislation was introduced in the one hundred seventh congress, with bipartisan support, that established deadlines for the administration of claims and that provided for a federal willing payor to equitably administer disability payments and meritorious medical claims; and

WHEREAS, some New Mexicans with meritorious claims were unfairly denied state workers' compensation in the years prior to passage of the federal act, and these individuals and their survivors should not be left behind without a willing payor; and

WHEREAS, special exposure cohort status is awarded to a worker who proves that, within a minimum of two hundred fifty days of employment and with a doctor's confirmation of exposure to beryllium, he has developed cancer or silicosis and is automatically qualified for the federal energy employees occupational illness compensation program; and

WHEREAS, workers at facilities in other states who were exposed to types of radiation and toxic substances similar to those to which Los Alamos national laboratory workers were exposed were awarded special exposure cohort status, while Los Alamos national laboratory workers were not; and

WHEREAS, New Mexico's large population of potentially eligible claimants should not have to wait another generation or more to be compensated for their occupational illnesses; and

WHEREAS, the thousands of New Mexicans who risked their lives and good health in the service of their country should be compensated before they die;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the state's congressional delegation be requested to report on their efforts in the past year and continue to pursue legislation to amend the federal Energy Employees Occupational Illness Compensation Program Act of 2000 to ensure that:

- A. there is a willing payor for every meritorious

claim, including those claims that were previously denied under state workers' compensation programs;

B. the United States department of energy concludes its reviews of claims within one hundred eighty days;

C. a non-adversarial forum be established to resolve claims independent of state workers' compensation programs;

D. those employees who are unable to obtain records establishing past exposures and employees whose claims of radiation exposure are in jeopardy of being denied due to scientific uncertainty in causation determinations should receive the benefit of the doubt and be compensated under the federal act;

E. chronic renal disease in workers exposed to uranium be recognized as a compensable illness;

F. special exposure cohorts be established for employees in area G and the linear accelerator at Los Alamos national laboratory, and for security guards and all construction workers, due to the impossibility of accurately reconstructing past radiation doses;

G. a program of technical assistance grants be created to enable community- and labor-based organizations to assist claimants; and

H. congressional oversight hearings be held to

investigate whether the energy employees occupational illness compensation program is meeting the needs of claimants in New Mexico; and

BE IT FURTHER RESOLVED that each member of the New Mexico congressional delegation report in writing to the legislature on individual progress to amend the federal Energy Employees Occupational Illness Compensation Program Act of 2000 with specific efforts to qualify Los Alamos national laboratory workers for special exposure cohort status; and

BE IT FURTHER RESOLVED that the federal secretary of energy, the federal secretary of health and human services and the federal secretary of labor, each of whom shares responsibilities for implementing the energy employees occupational illness compensation program, be requested to redouble their efforts to ensure that the program achieve its intended purpose of providing benefits to the people of New Mexico who were made ill while employed at federal department of energy facilities and that each department provide an annual written report to the legislature on the progress of the memorial resolutions since 2000, when the federal Energy Employees Occupational Illness Compensation Program Act of 2000 was enacted; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the members of the New Mexico congressional delegation and to the cabinet secretaries of the departments

of energy, health and human services and labor.